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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/445,844	12/15/1999	SHIJUN YANG	DN97-038	1439

7590 04/07/2003

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EXAMINER
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MEDLEY, MARGARET B

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 04/07/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/445,844	YANG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Margaret B. Medley	1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 17 December 2002.

2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1,3,7 and 9-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☒ Claim(s) 11 is/are allowed.

6) ☒ Claim(s) 1,3,7,9,10 and 12-20 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All   b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

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### DETAILED ACTION

This action is in response to Paper No. 13 dated December 17, 2002 wherein applicants' amendments to claims 7 and 20 were entered of record.

Claim 11 is allowable based on applicants' arguments presented of record and the data set forth in Tables I and II on pages 24 and 26 of the instant application.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3, 7, 9-10 and 12-20 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Minghetti et al 5,242,968, Ghahary 5,304,592 and Cozens et al 5,130,374 for reasons made of record in Paper No. 12 dated September 17, 2002.

Applicant's arguments filed December 17, 2002 have been fully considered but they are not persuasive.

Applicants' amendment to claim 20 has overcome the rejection based on 35 U.S.C., 112 first paragraph rejection.

Applicants allege at the paragraph bridging pages 7 and 8 of Paper No. 13 dated December 17, 2002 that they have found unexpectedly and surprisingly that the instant composition is capable of being extruded or injection molded multiple times. Such granite-appearing compositions are not disclosed, taught or suggested in the prior art.

The examiner has considered applicants' allegations. In view of said allegations the examiner has given a careful study and reconsideration of the instant claims and data provided in Tables I and II on pages 24 and 26 of the instant applications. It has been determined by the examiner that claim 11 is allowable over the prior art made of record and relied upon. However the remaining claims 1, 3, 7, 9-10 and 12-20 are not commensurate in scope with the results with the data presented in Tables I and II that require the presence of the "impact modifier that is a multi-stage sequentially-produced polymer comprising at least three stages ... third stage".

The said pending instant claims of record read on the impact modifier being as low as zero percentage and the poly (alkyl (meth)acrylate) being as high as 100 percentage which appears to be contradictory to the data and results presented in Table I and II to show applicants' unexpected and surprising results. Applicants pending claims as drafted read on the teachings of the relied on prior art in the art rejection under 103 made of record. If applicants' argue and contends that their zero percentage

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of impact modifier works as the claimed invention, then applicants are advised to reconsider the teachings of prior art U.S. Patent No. 3, 793,042 at lines 1-3 made of record at page 19 of the instant application wherein applicants states that the thermoplastic matrix is a blend of thermoplastic polymer and impact modifiers. A copy of the said reference is enclosed for applicants' convenience.

The prior art made of record and not relied upon further teaches thermoplastic and polymers of the same nature as applicants' instant claims.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret B. Medley whose telephone number is 703-308-2518. The examiner can normally be reached on Monday-Friday from 7:30 am to 6:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

M. B. Medley/mn  
April 4, 2003

*Margaret B. Medley*  
MARGARET MEDLEY  
PRIMARY EXAMINER